

AMENDMENT AND RESPONSE

Serial Number: 09/748,724

Filing Date: December 26, 2000

Title: Method and System for Display of Cardiac Event Intervals in a Resynchronization Pacemaker

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REMARKS

Claims 1-14 are pending in the case, claims 15-19 having been cancelled herein without prejudice or disclaimer pursuant to the restriction requirement in the previous office action. Additionally, the examiner has withdrawn claims 6-14 from consideration as being drawn to a non-elected species, alleging that there is no allowable generic or linking claim. Claims 1-5 were rejected in the office action under 35 U.S.C. 103. Applicant maintains the traversal of the election of species requirement pending resolution of the art rejections applied to claims 1-5.

Rejections Under 35 U.S.C. § 103

In the office action, claims 1 and 5 were rejected under 35 U.S.C. 103(a) as being unpatentable over Conley (U.S. Patent No. 6,353,761) in view of Esler (U.S. Patent No. 6,128,529). Claims 2-4 were rejected under 35 U.S.C. 103(a) as being unpatentable over Conley in view of Esler as applied to claim 1 and, further in view of Struble (U.S. Patent No. 6,081,748). The rejections are respectfully traversed. All of the rejections rely upon the Conley patent which issued after the filing date of present application but which has a filing date preceding that of the present application. It is therefore believed that the Conley patent is used as a reference to the present application, if at all, only under 35 U.S.C. 102(e). In view of the common ownership of the present application and the Conley patent, applicant asserts that the latter is not prior art to the present application for purposes of 35 U.S.C. 103. Reconsideration and withdrawal of the rejections based upon 35 U.S.C. 103 are therefore respectfully requested.

Statement of Common Ownership

Applicant declares that, at the time the present invention was made, the present application and U.S. Patent No. 6,353,761 were owned by the same entity. Since that patent could only otherwise qualify as prior art to the present application under 35 U.S.C. 102(e), it is disqualified as prior art for purposes of section 103(a) under 35 U.S.C. 103(c).

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CONCLUSION

Claims 1-14 are pending. Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney (612 373-6912) to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

Scott Vanderlinde, et al.

By their Representatives,

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Date Mar. 31, 2003

By [Signature]
Timothy E. Bianchi
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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Commissioner of Patents, Washington, D.C. 20231, on this 31 day of March, 2003.

GREG HANSON
Name

[Signature]
Signature

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